Decision

Matter of: Reid Planning, Inc.

File: B-412942

Date: July 8, 2016

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DIGEST

In a procurement for architect-engineer services, protest challenging the agency's evaluation of the protester's qualification statement is denied where the record demonstrates that the agency reasonably evaluated the protester's statement consistent with the solicitation's selection criteria.

DECISION

Reid Planning, Inc., a small business located in San Diego, California, protests the selection of The Onyx-Urban Collaborative Joint Venture, LLC, a small business located in Alexandria, Virginia, for price negotiations in connection with synopsis No. N62473-16-R-1846, which was issued by the Department of the Navy, Naval Facilities Engineering Command Southwest (NAVFAC SW) for architect-engineer (A/E) services. The protester challenges the agency's evaluation of its qualification statement.

We deny the protest.

Generally, A/E procurements, such as the one at issue in this protest, are conducted pursuant to special procedures established by the Brooks Act, 40 U.S.C. §§ 1102-1104, as implemented in Federal Acquisition Regulation (FAR) subpart 36.6. Under the competitive procedures established by FAR subpart 36.6, the agency does not issue a solicitation, and competing firms do not submit proposals or quotations. FAR §§ 36.601-2, 36.603. Rather, the agency publishes a synopsis inviting capable firms to submit a Standard Form (SF) 330, “Architect-Engineer Qualifications” statement. FAR § 36.603(b). The agency then convenes an A/E evaluation board to review the submitted A/E qualifications statements, and
holds discussions with at least three of the "most highly qualified" firms. FAR §§ 36.602-2, 36.602-3. The board ranks the firms, and prepares a selection report for the source selection authority (SSA) recommending, in order of preference, at least three firms considered to be the most highly qualified to perform the required services. FAR § 36.602-3. In turn, the SSA makes a final selection, which consists of the SSA’s listing, in order of preference, of the most highly qualified firms. FAR § 36.602-4.

On October 23, 2015, the Navy publicly announced through the Federal Business Opportunities website the current A/E synopsis as a total small business set-aside for facility planning services at various Navy and Marine Corps facilities and other government installations located in the NAVFAC SW area of responsibility: California, Arizona, Nevada, Colorado, New Mexico, and Utah. Synopsis at 1. The preponderance of the facility planning work was expected to be performed in southern California and encompassed primary A/E services (project planning documents); secondary A/E services (sustainability master planning and geospatial information and service); and support A/E services (other services). Id. at 1-2.

The synopsis provided for the award of a fixed-price indefinite-delivery, indefinite-quantity contract for a base year and four option years. Id. The synopsis invited qualified firms to submit SF 330s, A/E qualifications statements, which would be evaluated based on eight selection criteria: (1) professional qualifications; (2) specialized experience and technical competence; (3) capacity; (4) past performance; (5) location and knowledge of the locality; (6) sustainable design; (7) quality control; and (8) volume of work. Id. at 2. The synopsis included detailed submission requirements for each selection criterion, and stated that the A/E firm must demonstrate its qualifications for each criterion. Id. at 3-7. Interested firms were informed that the most highly qualified firm would be selected for price negotiations. Id. at 2.

The Navy received multiple SF 330s in response to the synopsis. Agency Report (AR), Tab 6, Board’s Slate Decision, at 1. After an initial evaluation of the submissions, a Navy selection board slated three firms, including Reid, to proceed to discussions. Id. The board submitted interview questions to each of the three slated firms. See AR, Tab 7, Interview Questions, at 1-2. With respect to Reid, the board posed questions relating to the following criteria: professional qualifications; specialized experience and technical competence; capacity; location and knowledge of the locality; and sustainable design. Id. at 1. While the board determined that Reid had met these criteria, there were aspects of each the board found lacking. AR, Tab 6, Board’s Slate Decision, at 10-12. For example, the board concluded that Reid had not demonstrated prime A/E experience in

1 Amendment 0001 to the synopsis was issued on October 27, 2015. This amendment was released as the final synopsis and is the version we cite to herein.
sustainability master planning under the specialized experience and technical competence criterion. Id. at 10. Additionally, the board found that Reid had generally discussed its management and processes under the capacity criterion but had not specifically related them to their available capacity. Id. Similarly, the board noted, under the location criterion, that Reid had mentioned that it provided planning services at every installation but “did not provide any details.” Id. at 12.

At the conclusion of discussions, the board evaluated the firms’ responses. The board members then discussed the merits of each firm relative to the selection criteria and ranked the three slated firms for each criteria and overall. AR, Tab 9, Board’s Selection Report, at 1-22. As relevant to this protest, with regard to the specialized experience and technical competence criterion, the board determined that Onyx provided the superior submission, while Reid’s submission was ranked second. Id. at 2. Under the capacity criterion, the board found that Onyx tied for first, with Reid ranked third. Id. With respect to the location and knowledge of the locality criterion, Reid was again ranked third with the two other firms tying for first. Id. Overall, Reid placed third among the three slated firms, with Onyx placing first. Id. The board recommended the selection of Onyx as the most highly qualified firm to proceed to price negotiations. Id. The contracting officer approved the selection board’s ranking of the firms’ submissions. Id. at 21.

Reid received the Navy’s non-selection notice on March 24, 2016. AR, Tab 1, Non-selection Letter, at 1. The protester filed its protest with our Office on April 4.

DISCUSSION

Reid challenges the agency’s evaluation of its submission. The protester argues that the agency used unstated selection factors in its evaluation of the specialized experience and technical competence criterion; improperly evaluated Reid’s capacity; and failed to give Reid proper credit under the location and knowledge of the locality criterion. The protester also contends that the agency improperly compared the firms’ submissions in reaching its most highly qualified determination.2 As explained below, we find no merit to the protester’s allegations.

In reviewing a protest of an agency’s selection of a contractor for A/E services, our Office will not substitute its judgment for that of the agency evaluators. OLBN Architectural Serv., Inc., B-402444.4, B-402444.5, Oct. 4, 2010, 2011 CPD ¶ 55

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2 The protester also initially alleged that the awardee had a conflict of interest because its joint venture member was a subcontractor to Reid. The agency in its report responded to this allegation. Reid’s comments on the report did not address the agency’s response. We therefore consider Reid to have abandoned this allegation, and we will not further consider it. McKissack-URS Partners, JV, B-406489.7, Jan. 9, 2013, 2013 CPD ¶ 25 at 4 n.2.
Rather, the evaluation of firm’s qualification statement is within the discretion of the agency, and our review examines whether the agency’s selection was reasonable and in accordance with the published criteria. AMEL Techs., Inc., B-412611, Apr. 1, 2016, 2016 CPD ¶ 5. A protester’s disagreement with the agency’s evaluation, without more, does not show that it is unreasonable. Id.

The protester first contends that the agency’s evaluation under the specialized experience and technical competence criterion unreasonably relied upon unstated evaluation criteria. Reid argues that the agency’s interview questions placed improper emphasis on whether the projects submitted by Reid received awards or certifications, which was not a requirement of the agency’s synopsis.

The synopsis required firms to submit under the specialized experience and technical competence criterion a minimum of five specific, recently completed projects that best illustrate overall team experience in the required A/E services. Synopsis at 4. The synopsis provided that the agency’s evaluation of the projects would consider the specialized experience and technical competence of the proposed team relative to the primary (project planning documents) and secondary (sustainability master planning and geospatial information and service) A/E services being procured. Id. As relevant to sustainability master planning, the synopsis required firms to address in their submissions sustainable features incorporated in their project. Id. at 5.

The agency’s initial evaluation of Reid’s statement concluded that Reid had not demonstrated prime A/E experience in sustainability master planning. AR, Tab 6, Board’s Slate Decision, at 10. Reid was posed two questions in its interview to address the agency’s concern: (1) address sustainability master planning experience from the prime A/E firm and (2) if any projects have received awards or certifications, please provide copies. AR, Tab 7, Interview Questions, at 1. During Reid’s interview, the firm discussed its sustainability master planning efforts on a public works business line capital improvement plan. AR, Tab 8, Reid Interview Response, at 10-11. Reid did not submit any awards or certifications in its interview response to this criterion. Id. The agency considered Reid’s responses and concluded that Reid’s public works project did not have a significant amount of sustainable master planning in its scope and was not relevant. AR, Tab 9, Board’s Selection Report, at 12. Nevertheless, despite Reid’s limited prime experience in this area, the evaluation board concluded that overall Reid sufficiently addressed the requirements of the criterion. Id. The agency’s evaluation of Reid did not provide any mention of awards or certifications (or lack thereof) for the projects presented. Id.

We find no merit to the protester’s argument that the agency’s evaluation was unreasonable. First, Reid’s assertion that the evaluation was based upon “who had the most awards and the quality for the awards” is not supported by the record. Protester’s Comments at 3. The record is devoid of any information that would
demonstrate a simple counting of a firm’s awards. AR, Tab 9, Board’s Selection Report, at 16-20. Moreover, the agency’s request for copies of awards or certifications does not support the protester’s view that the agency unreasonably relied upon unstated evaluation criteria in its evaluation of firms’ submissions. While procuring agencies are required to identify significant evaluation factors and subfactors in a solicitation, they are not required to identify every aspect of each factor that might be taken into account; rather, agencies reasonably may take into account considerations, even if unstated, that are reasonably related to or encompassed by the stated evaluation criteria. Millennium Space Sys., Inc., B-406771, Aug. 17, 2012, 2012 CPD ¶ 237 at 7. Further, an element considered in an evaluation need not be specifically stated where it is intrinsic to the criteria that are stated in the synopsis. Id. Here, the agency question asked Reid for copies of any awards or certifications as a means to demonstrate prime experience with sustainability master planning. Agency Legal Memorandum at 9. This question was intrinsic to the evaluation of sustainability master planning and was not improper.\(^3\)

Next, Reid asserts that the agency’s evaluation under the capacity criterion was unreasonable because, in Reid’s view, the agency mistakenly believed Reid did not have enough capacity to properly service NAVFAC’s needs. Reid contends that it initially provided a list of [REDACTED], and then [REDACTED] during its interview response. Reid also argues that it noted in its submission that further capacity would become available when its current employees finished working on open task orders. Reid alleges that the agency incorrectly concluded that Reid did not have sufficient capacity to perform the work, and failed to consider that Reid would soon complete its current task orders and have excess capacity before the start of the NAVFAC work.

The synopsis required firms to submit a narrative to demonstrate the firm’s capacity to accomplish the work in the required time frames and address the following key elements: present workload and capability to integrate work under the contract with

\(^3\) In any event, even if the agency’s request to provide copies of awards and certifications was improper, the record demonstrates that the agency did not consider firms’ awards and certifications to be a deciding factor in the final ranking of offers. In this regard, the board’s criteria ranking and overall ranking of the firms did not include any mention of awards or certifications. AR, Tab 9, Board’s Selection Report, at 16-21. Thus, the protester cannot demonstrate that it was prejudiced by the agency’s request for copies of awards and certifications. See HydroGeoLogic, Inc., B-311263, B-311263.2, May 27, 2008, 2008 CPD ¶ 218 at 7 (Our Office will not sustain a protest unless the protester demonstrates a reasonable possibility that it was prejudiced by the agency’s actions; that is, unless the protester demonstrates that, but for the agency’s actions, it would have had a substantial chance of receiving the award).
other work; methodology the prime A/E firm will use to execute a minimum of 50 percent of the contract value with in-house personnel; availability of the project team for the specified contract performance period; capacity to accomplish multiple large task orders simultaneously; and strategy to meet surges in unexpected workload demand. Synopsis at 5-6. The synopsis provided that the agency’s evaluation would consider a firm’s capacity to accomplish the work in the required time and the capability to self-perform at least 50 percent of the contract value with in-house staffing. Id. at 5.

The agency’s evaluation of Reid’s submission and response to interview questions found that Reid had sufficiently addressed this criterion. AR, Tab 9, Board’s Selection Report, at 13. In this regard, the board concluded that Reid had sufficient capacity in relation to the number of people on the firm’s staff. Id. However, in determining the ranking of firms for price negotiations, the board concluded that Reid did not provide the same level of detail in its submittal and, consequently, was ranked lower than the other two firms under this criterion. Id. at 18.

Our review of the agency’s evaluation documents demonstrates that Reid’s basic premise—that the agency did not properly consider that Reid would have sufficient capacity to fulfill the agency’s requirements—is not supported by the record. In this regard, the board fully considered the capacity proposed by Reid and concluded it was sufficient to meet the requirement. For example, the selection board found that Reid “sufficiently addressed their present workload and capability to integrate work under this contract with other work[,]” and “addressed their open task orders, completion dates, and ability to be at full capacity for this contract.” Id. at 13. The board also noted that during Reid’s interview, the firm “reaffirmed that they will have the capacity to integrate the anticipated volume of work for this proposed contract.” Id. Thus, we find the agency’s evaluation unobjectionable. The board properly considered Reid’s proposed capacity and reasonably concluded that Reid sufficiently addressed the criterion.

Reid also complains that the agency improperly compared its submission to the other firms’ submissions rather than solely against the synopsis capacity criterion.

As noted above, the record demonstrates that the agency properly evaluated Reid’s submission against the capacity criteria. Moreover, Reid’s allegation that the agency could not discuss the relative merits of the competing firms is misplaced. In a Brooks Act procurement, as here, an agency is required by law to rank firms in order of preference. See 40 U.S.C. § 1103; FAR §§ 36.602-3, 36.602-4. Thus, any comparison of submissions was entirely appropriate here, notwithstanding the protester’s suggestion otherwise.

In the alternative, to the extent Reid’s allegation challenges the agency’s relative ranking of the firms with regard to the capacity criterion, we find that the agency reasonably ranked Reid’s submission. Here, while all three firms met the criterion’s
requirements, the agency ranked Reid third because its submission provided the least amount of detail. AR, Tab 9, Board’s Selection Report, at 18. The agency found that the two other firms provided numerous examples and explanations to demonstrate their ability to meet the capacity requirements whereas Reid did not. Id. Reid’s disagreement with the agency’s ranking does not provide a basis to sustain the protest, as it was Reid that failed to submit an adequately supported submission. See Electronic Interiors Inc., B-405576, Nov. 18, 2011, 2011 CPD ¶ 267 at 3 (An A/E firm has the responsibility to submit a well-written qualification statement, with adequately detailed information that clearly demonstrates compliance with the solicitation requirements, allows a meaningful review by the procuring agency, and contains all the information that was requested or necessary to demonstrate its capabilities in response to the solicitation).

Lastly, the protester challenges the agency’s evaluation under the location and knowledge of locality criterion. Here, Reid alleges that the evaluation was unreasonable because Reid did not receive credit for its proximity to the location.

The synopsis required firms to demonstrate the team’s knowledge of, and project experience within, the geographic locations for anticipated projects on the contract, including: the location of the firm’s main office and any branch offices and subcontractor offices that would be utilized for the contract; a description of the team’s knowledge of, and project experience within, the targeted geographic areas; and a description of the team’s ability to ensure timely response to requests for onsite support at government installations throughout the NAVFAC SW area of responsibility.4 The synopsis provided that the agency’s evaluation of this criterion would consider the team’s location, demonstrated knowledge of, and project experience within, the geographic areas where projects were anticipated. The synopsis additionally advised that the agency may consider prime A/E firms with a local office in southern California more favorably.

The agency’s evaluation of the protester’s submission acknowledged that Reid’s main office is located in San Diego, California, but the board explained that they did not give additional credit to Reid’s submission on this basis. AR, Tab 9, Board’s Selection Report, at 14. Ultimately, the board concluded that the firm sufficiently addressed the team’s knowledge of, and project experience within, the targeted geographic areas. Id. However, the board noted that while Reid stated that it provided planning services at every installation within the NAVFAC SW area of responsibility, Reid only briefly discussed the details of a few of these projects. Id.

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4 Firms with a main office outside of southern California were also required to address how the firm would effectively communicate, collaborate, and share data with clients and subcontractors.
We find nothing improper about the agency’s evaluation under this criterion. The agency acknowledged Reid’s local office and found that Reid’s submission sufficiently addressed the team’s knowledge of, and project experience within, the targeted geographic areas. The protester’s argument— that it should have received additional credit because of its location in San Diego—represents only disagreement with the agency’s evaluation and does not provide a basis to sustain the protest. While the synopsis provided that an agency may consider prime A/E firms with a local office in southern California more favorably, the agency explains that the board chose not to give firms extra credit in this area because all three of the competing firms had sufficient (or better) knowledge of the location and knowledge of the locality. Agency Legal Memorandum at 10; AR, Tab 9, Board’s Selection Report, at 5, 9, 14. We have no basis to question the agency’s determination in this regard.

In sum, we find that the agency’s evaluation and ranking of submissions was reasonable, performed fairly, and in accordance with the synopsis criteria and relevant procurement laws and regulations. Accordingly, we find no basis to sustain the protest.

This protest is denied.

Susan A. Poling
General Counsel